

# EXHIBIT A

Volumes I and II of Rule 2004 Transcript  
of Olive Hemmers' Testimony

## Volume I

Oliver Hemmers

In re: Infinity Capital Management, Inc.

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

In re:	)	
	)	
INFINITY CAPITAL MANAGEMENT, INC.	)	Case No.
	)	21-14486-abl
Debtor.	)	Chapter 7
_____	)	

RULE 2004 EXAMINATION OF OLIVER HEMMERS

Volume I

[via web videoconference]

Taken on Wednesday, November 10, 2021  
by a Certified Court Reporter  
At 9:03 a.m.  
Held in Las Vegas, Nevada

Reported by: Ellen A. Goldstein, CCR 829

1 Q But in terms of how they were actually paid,  
2 was there a separate check written for each account or  
3 was it more of a monthly true-up or something of that  
4 nature?

5 A Yeah, it was probably more like a monthly,  
6 maybe bimonthly depending on how much volume came in. We  
7 didn't pay for each receivable.

8 Q But typically there was a check written to the  
9 provider from whom the receivable was purchased for each  
10 receivable or for at least specific groups of  
11 receivables?

12 A Yeah. Providers -- the payment to providers is  
13 usually a payment for a whole bunch of receivables. It's  
14 not common to write a check for one receivable. We might  
15 have just -- you know, we might have said four months,  
16 let's say, we pay 50 receivables and there was a check  
17 made out to a provider for those 50 receivables.

18 Q Okay. To the extent in columns DV and DW  
19 there's a check number for a particular receivable, that  
20 check might relate to more than just that receivable;  
21 correct?

22 A Yeah. When you go down the column, let's say  
23 you sort it by check number. You'll find some check  
24 numbers multiple times, and those were the -- effectively  
25 the check to the same provider for those receivables.

1 Q All right. In this backup database that you  
2 still have that includes all of this information, is  
3 there a field that you could export that would -- that  
4 could have been included in this report or even exported  
5 separately that would show the check amounts that tie in  
6 with these check numbers?

7 A Yeah, it's in the database. I didn't check  
8 every heading. It's definitely something we have in the  
9 database, the direct amount paid to the provider.

10 Q In that database, is there a separate field  
11 that identifies the actual cost paid to the provider --

12 A Yes.

13 Q -- that can be exported?

14 A Yes.

15 Q Is there a field that shows the actual amount  
16 paid to the broker?

17 A No.

18 Q Is there any field that shows the amount paid  
19 to -- or the amount allocated to overhead for Infinity?

20 A No.

21 Q In terms of that field that would show the  
22 actual amount paid to the provider, can you tell me why  
23 that wasn't included in the spreadsheet?

24 A I thought it was, but as I said, I did not  
25 check every -- it's not a standard report; right? So I

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1 have to look. I have to find out, you know, why it's not  
2 in there.

3 Q But, you know, to be perfectly honest -- I'm  
4 sorry, I didn't mean to interrupt.

5 A I was asked to provide a data dump and did the  
6 best I could with the tools I had after the filing, and  
7 that's what effectively was produced. Now, did I check  
8 every field if they were exported properly? No, I did  
9 not. So that probably can be exported as well.

10 Q Okay. What would be the heading on that field  
11 if it had been included in this report, do you know?

12 A It would say something was maybe paid, paid  
13 amount or paid -- you know, something in that -- along  
14 those lines.

15 Q Do you know, in the prebankruptcy reports that  
16 were provided to HASElect, was that information  
17 included?

18 A No. The paid amount was never part of the  
19 reports.

20 Q Okay. This next column under the heading  
21 Bill GFB, what I understood from your wife's answer  
22 yesterday is that it represents the face amount of the  
23 Invoice being acquired. Is that correct?

24 A That's correct.

25 Q Okay. And then this next column, Total Bill

1 Income, can you tell me what that represents?

2 A I think that is the amount that was received  
3 when the case settled for that individual bill.

4 Q And is that the actual amount received or other  
5 modifications to accounts or overhead or brokerage fees  
6 or anything else of that nature?

7 A No. That was the actual amount received.

8 Q And backing up to the Bill Cost column, if I  
9 were to scroll through 18,000 lines down in this  
10 spreadsheet and total that column up, I would get a  
11 number, but that wouldn't necessarily be the number that  
12 was paid for these receivables. That wouldn't include  
13 brokerage fees and overhead; correct?

14 A That's correct.

15 Q With respect to this column, the Bill GFB  
16 column, if I were to scroll down to the bottom and add it  
17 up, that would actually be, though, the correct face  
18 amount for the Invoices or receivables acquired by  
19 Infinity; is that correct?

20 A That's correct.

21 Q This next column, Total Bill Income -- I'm  
22 sorry, I did that already.

23 Bill Claim Income, what does that represent?

24 A Well, the way the structure of the database  
25 works is that every patient can have an incident, which



1 would be like a motor-vehicle accident, for example,  
2 which is associated with a certain date; and in that  
3 incident you can have, as an attorney, file several  
4 claims against a third party, let's say the tortfeasor or  
5 UIM, whatever. There are certain potential pots of money  
6 that that can tap into and file a claim against the loss,  
7 and in most cases it's only one claim because there's  
8 only one tortfeasor insurance. And under each claim you  
9 will then have those associated medical bills, and when  
10 you have more than one, then the claim income is larger  
11 than the bill income because you have to add up several  
12 bills, right, and that gives you the claim income. And  
13 so this way you know, okay, the case settled in total,  
14 let's say, for \$10,000 but there were 20 bills in there  
15 and they split up those incomes accordingly.

16 Q Okay. So that seems to relate more to a  
17 capability of the database rather than, you know,  
18 anything specific with a lot of these accounts.

19 A Well, that's data management, right, especially  
20 when you have multiple entities paying for individual  
21 bills within the same claim; right? Then you know how  
22 they relate and then you know how to split up a  
23 settlement check.

24 Q This column AV, Claim Status, this first group  
25 are designated as closed. It's my understanding that

1 means that it's a receivable that's been collected. Is  
2 that correct?

3 A Yeah. It's a settled case.

4 Q Where if we have notations designating this as  
5 "collections," can you tell me what that means?

6 A The case did not settle, but effectively it's  
7 also not closed. So in cases, let's say, when the  
8 patient fires their attorney, then there's nobody  
9 collecting on behalf of the patient; and therefore the  
10 only person who could pay for any outstanding amount  
11 would be the patient themselves, and that's what  
12 "collections" means.

13 Q What, if any, action did Infinity attempt -- or  
14 take to attempt to collect on those accounts here that  
15 are designated as "collections"?

16 A We used a third-party collection company.

17 Q Was Infinity using a third-party collection  
18 company as of September 14th?

19 A Yes.

20 Q Who was that third party?

21 A It's called Dynamic Legal.

22 Q Is there a written contract between Infinity  
23 and Dynamic Legal -- was there?

24 A Yes, there's a contract.

25 Q And was that something that was handled on a

1 information necessary to do that accounting as of  
2 September 14th of 2021?

3 A Yes.

4 Q So even if you couldn't personally do it,  
5 somebody at Infinity or an accountant on behalf of  
6 Infinity could have used the books and records that it  
7 had in its possession at that time and arrived at that  
8 number?

9 A Yeah. I think Infinity probably was the best  
10 to determine that number for that particular amount, but  
11 I don't think anybody did it.

12 Q Let's look at another document. This document  
13 is in the Dropbox as Exhibit 18. It's a series of emails  
14 that were exchanged between you and Endre at FTM. This  
15 was around the inception of the dividing relationship  
16 between Infinity and HASElect. It's referencing, you  
17 know, placing stamps on certain documents. Can you tell  
18 me what that relates to?

19 A Yes. It was agreed on putting electronic  
20 stamps, using mostly Adobe Acrobat stamping features, on  
21 the liens that were related to the receivables that  
22 Infinity purchased and that was a collateral of the  
23 HedgeACT loans. So this way, on the collection, it would  
24 be immediately visible that those liens were funded -- or  
25 the receivables under those liens were funded -- by

1 HedgeACT.

2 Q Were the documents that were stamped, or were  
3 contemplated being stamped, documents that would have  
4 been retained by Infinity or are they documents that  
5 would have been shared with third parties?

6 A Well, those documents were all retained by  
7 Infinity in the database; right? It was -- usually it  
8 did not really need to share any documents with attorneys  
9 that had outstanding liens. They would know, "Okay, we  
10 have this with Infinity." They would contact Infinity  
11 and say, "What is the outstanding amount," and there  
12 would be effectively a simple communication. Now that we  
13 had all the supporting documents and they needed that  
14 maybe for the court dockets, we could provide those to  
15 them when they needed to go to court so they could  
16 prewrite the package, but on a lot of cases they didn't  
17 require any documents.

18 Q And it looks, based on the top email here, that  
19 there was an agreement that electronic stamps could be  
20 used. Is that correct?

21 A Yes. We kind of discussed that for a while if  
22 we do that with an ink stamp or electronic, and it was  
23 decided to go with an electronic stamp that Infinity  
24 designed. We sent that to everybody and HedgeACT, and  
25 they looked at it and approved that; and moving forward,

## Volume II

Oliver Hemmers

In re: Infinity Capital Management, Inc.

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

In re:	)	
	)	CASE NO.:
	)	21-14486-abl
INFINITY CAPITAL MANAGEMENT,	)	
INC.; dba INFINITY HEALTH	)	Chapter 7
CONNECTIONS,	)	
	)	Volume II
Debtor.	)	Pages 163 - 219
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CONTINUED REMOTE FRCP 2004 EXAMINATION  
OF OLIVER HEMMERS

Taken on November 18, 2021

By a Stenographic Certified Court Reporter

At 9:05 a.m.

Location of Witness: Las Vegas, Nevada

Via Zoom Web-Based Videoconferencing

Reported by: Janet C. Trimmer,  
NV CCR 864, RPR, CRR  
Location of Reporter: Las Vegas, Nevada  
Job No. 47158

1 will take turns, me asking a question, you answering  
2 the question, it will be much easier for Ms. Trimmer  
3 to take our statements down cleanly. Can we do that?

4 A. Yes.

5 Q. If you don't understand one of my questions,  
6 please let me know and I will try to rephrase it in a  
7 way that you do. Is that okay?

8 A. That's good.

9 Q. As a reminder, although we are on video and  
10 can see each other, the only true testimony is what  
11 you say. The court reporter can't take down a  
12 head-shake or a nod or an uh-huh or an huh-uh. She  
13 needs an actual verbal answer from you, and I know  
14 sometimes that can be difficult and I'll try to remind  
15 you as we go along. Is that fine?

16 A. Yes.

17 Q. Before we begin, just let me briefly make a  
18 preemptive apology. I'm working from home today,  
19 which means my dogs are here and they tend to review  
20 everything that they can see and sense as their domain  
21 and they bark. Hopefully that won't happen, but  
22 you've been warned.

23 Mr. Hemmers, I'd like to start -- and I'll  
24 skip around a little bit, but I want to start with  
25 just some general information and just to kind of

1 understand the assets that are at issue here.

2 It's correct that Infinity owned a set of  
3 receivables that secured HA Select's loan; is that  
4 correct?

5 A. Yes.

6 Q. Is it also correct that Infinity serviced a  
7 second set of receivables that were run by Tecumseh?

8 A. Yes.

9 MR. LARSEN: Michael.

10 MR. NAPOLI: Yes.

11 MR. LARSEN: Just to put something on the  
12 record here, to the extent you are getting into things  
13 that are going to relate to the adversary proceeding,  
14 I would object based on the pending proceeding rule as  
15 I -- it is not appropriate to seek discovery through a  
16 2004 examination relating to claims or defenses at  
17 issue in an adversary proceeding. I just want --

18 MR. NAPOLI: No, I understand, Bart, but, you  
19 know, I'm going over ground that you covered.

20 MR. LARSEN: Understood. I don't necessarily  
21 want to object every time you raise a question that  
22 goes in that direction. Can we agree to just have a  
23 standing objection on that issue --

24 MR. NAPOLI: Yeah.

25 MR. LARSEN: -- so that if it comes up down



1 the road, the record is there?

2 MR. NAPOLI: Yeah, but I would note that I  
3 think this line of questioning and testimony is going  
4 to bear on this proposed sale.

5 MR. LARSEN: Understood. Like I said, I  
6 don't want to have to object every time we go that  
7 direction.

8 MR. NAPOLI: No.

9 MR. LARSEN: So, I mean, if you prefer that I  
10 do it question by question, that's fine too.

11 MR. NAPOLI: No, Bart, I prefer that you  
12 didn't. I understand what you are saying. In all  
13 candor, I don't agree with you on that and I think --

14 MR. LARSEN: Understood.

15 MR. NAPOLI: -- you kicked the door open  
16 pretty wide in your direct.

17 MR. LARSEN: Yes, and I get that. Like I  
18 said, I want to preserve the record here so that if it  
19 comes up down the road, the objection is preserved.

20 MR. NAPOLI: I get it, and we may be doing  
21 this again in our case, and that's fine.

22 MR. LARSEN: Okay. All right. Thank you.

23 BY MR. NAPOLI:

24 Q. Infinity's internal records denote which  
25 receivables belong to Infinity and which belong to

1 Tecumseh; correct?

2 A. Yes.

3 Q. So somebody reviewing Infinity's records  
4 would be able to tell the difference between the two  
5 categories?

6 A. Yes.

7 Q. How would they do that? Where would they  
8 look?

9 A. In the database.

10 Q. Which field would show that?

11 A. The field for a thing that's called "Fund."

12 Q. I'm going to show you a couple of  
13 spreadsheets, one of which I think you saw on the  
14 first day, one of which is similar to one you saw, and  
15 again, because there are Excel documents, they are not  
16 going into the Dropbox.

17 Okay. The first one I'm showing you is a  
18 spreadsheet called "TIFDumpWithIncomeFinal." Do you  
19 see that? Is it visible on your screen?

20 A. Yes, it is.

21 Q. And if I understand your testimony from last  
22 time, you created this spreadsheet for purposes of the  
23 bankruptcy. Is that correct?

24 A. That's correct.

25 Q. And you did so using information from

1 owned but which served as collateral for HA Select's  
2 loan; correct?

3 A. Yes.

4 Q. All right. So I'm going to define a term  
5 with you that we can use for the next several  
6 questions. I'm going to define the term "Tecumseh  
7 receivables" to be the receivables listed on the TIF  
8 dump spreadsheet that I showed you first, and that's  
9 marked TIF on the overlap spreadsheet. Does that make  
10 sense?

11 A. Yes.

12 Q. And if I say "Tecumseh receivables" you'll  
13 know what I'm talking about?

14 A. Yes.

15 (Previously designated Exhibit 1 for  
16 identification in Volume I referred to as follows:)

17 BY MR. NAPOLI:

18 Q. I'm now going to show you the schedule that  
19 was part of your deposition or the first day of your  
20 deposition, and this, I believe, was Exhibit 1 as  
21 marked by Mr. Larsen. Do you see that, sir?

22 A. Yes.

23 Q. I want to direct your attention to page 4 of  
24 49 which I have up on your screen. Do you see items  
25 10 and 11 under part 3?

1 A. Yes.

2 Q. Okay. This refers to accounts receivable in  
3 the amount of 5.78 million; is that correct?

4 A. Yes.

5 Q. It says "face amount" but really, as I  
6 recall, that's cost; is that correct?

7 A. That's the purchase cost.

8 Q. And remind me what purchase cost is.

9 A. It's the amount paid to the medical providers  
10 that originally owned those receivables.

11 Q. It does not -- therefore, it does not include  
12 the 20 percent or so that represents Infinity's  
13 overhead?

14 A. That's correct.

15 Q. Does this 5.78 million include any of what we  
16 have defined as the Tecumseh receivables?

17 A. No, it does not.

18 Q. Why not?

19 A. Because they are on a different schedule.

20 Q. Are the Tecumseh -- go ahead. I interrupted  
21 you, sir. Go ahead and finish your answer.

22 A. It's distinguished in the database that who  
23 paid for which receivables, and the Tecumseh  
24 receivables were not paid by the forum Infinity and,  
25 therefore, they don't show up in our accounting.

1 Q. Is that because, in your view, Infinity does  
2 not own an interest in those receivables?

3 A. That's correct.

4 (Previously designated Exhibit 17 for  
5 identification in Volume I referred to as follows:)

6 BY MR. NAPOLI:

7 Q. All right. I want to move now to what was  
8 marked as Exhibit 17 to -- on the first day of your  
9 deposition, which is the Tecumseh/Infinity  
10 sub-advisory agreement. This is Exhibit 17, the  
11 Tecumseh/Infinity sub-advisory agreement. Is that  
12 visible on your screen, sir?

13 A. Yes.

14 Q. I want to direct your attention to exhibit A.

15 A. Yeah.

16 Q. Does exhibit A set forth the particular  
17 services that Infinity was to provide to Tecumseh?

18 A. Yes.

19 Q. All right. I'd like to go through this. So  
20 in this agreement "sub-advisor" refers to Infinity; is  
21 that correct?

22 A. Yes.

23 Q. And "company" refers to Tecumseh?

24 A. Yes.

25 Q. So under item 1(a), Tecumseh or Infinity is

1 to assist Tecumseh in acquiring some medical  
2 receivables; is that correct?

3 A. Yes.

4 Q. Okay. And it's going to help -- it's going  
5 to do a review of the receivables; correct?

6 A. Yes.

7 Q. And what did that review entail?

8 A. It's validation and due diligence to make  
9 sure that these are real receivables, that the real  
10 services have been provided from the medical provider  
11 to the patients, and that there is a lien between in  
12 this case the provider and the attorneys that the  
13 provider can assign, and that -- and the payment  
14 schedule, what the costs were from the -- that the  
15 provider identified for those services.

16 Q. The point of all the due diligence is to make  
17 sure that this is something that Tecumseh would want  
18 to purchase?

19 A. Yes.

20 Q. And part of Infinity's responsibilities were  
21 to locate and validate receivables for Tecumseh to  
22 purchase; correct?

23 A. Yes.

24 Q. I'm going to scroll down to item 3. Do you  
25 see that at the bottom of your -- on your screen where

1 do to take care of these receivables on Tecumseh's  
2 behalf?

3 A. Yes.

4 Q. Can you describe to me generally what  
5 servicing a medical litigation receivable entails?

6 A. Yes.

7 Q. Would you?

8 A. We go into the detail. The case status needs  
9 to be followed up on every -- usually every 60 days in  
10 the beginning until the attorneys identify that they  
11 are getting closer to a settlement, and then the  
12 follow-up will be every 30 days on the status of the  
13 case, and at that point it gets closer to settling.

14 It also includes the settlement amount and  
15 the time frame of payment, and then usually within the  
16 last, you know, months of the case there might be a  
17 weekly follow-up on case status, on settlement status  
18 in this case, and payment arrangements. So it's a  
19 process, it's a constant contact and communication on  
20 the case with the attorney.

21 Q. Now, if you have a receivable with a face  
22 value of \$1,000, you are not necessarily going to  
23 collect the full \$1,000; correct?

24 A. Correct.

25 Q. Why not?

1 But, you know, in other cases they might not  
2 send you anything, they might send it to -- I don't  
3 know. They might just hold the funds or start an  
4 interplead. You know, there are different ways of  
5 kind of going about that.

6 But none of those cases would be kind of  
7 favorable for anybody who wants to collect these  
8 amounts.

9 Q. Or they could just send the money to the  
10 client too; right?

11 A. That's another option.

12 Q. Because that would make the client happy,  
13 that would make the lawyer happy; correct?

14 A. It would -- the lawyer would tell the client  
15 you have to deal with the medical bills now, yes, the  
16 money; right. So that --

17 Q. Right and --

18 A. -- can happen.

19 Q. -- in the situation we find ourselves in  
20 right now, though, there is no -- Infinity is out of  
21 business; correct?

22 A. That's correct.

23 Q. So there is no longer any relationship  
24 between the lawyer and the company; correct?

25 A. That's correct.



1 Q. The owner's ability to realize on the  
2 receivables is impacted by the servicing; is that  
3 correct?

4 A. Yes.

5 Q. Better servicing will lead to better  
6 outcomes?

7 A. Yes.

8 Q. Or servicing will lead to worse servicing --  
9 I'm sorry. Worse servicing will lead to worse  
10 outcomes; correct?

11 A. Yes.

12 Q. And no servicing will lead to even worse  
13 outcomes; is that correct?

14 A. Yes.

15 Q. Going back to the sub-advisory agreement  
16 generally, the purpose of this agreement was for  
17 Infinity to assist Tecumseh in purchasing receivables  
18 directly from the medical service providers; is that  
19 correct?

20 A. Yes.

21 Q. The dollars to purchase these receivables  
22 were to come from Tecumseh and not Infinity; is that  
23 correct?

24 A. Yes.

25 Q. Certainly the dollars to pay for this were

1 not to come from HA Select; is that correct?

2 A. Yes.

3 Q. Infinity was not to acquire any interest in  
4 the receivable; correct?

5 A. Yes.

6 Q. And Infinity was not supposed to be part of  
7 the chain of title; correct?

8 A. Yes.

9 Q. Infinity was not buying or selling, it was  
10 brokering; is that fair?

11 A. Yes.

12 Q. So Infinity acquired no interest in the  
13 receivable?

14 A. Yes.

15 Q. It merely serviced the receivables on  
16 Tecumseh's behalf?

17 A. Yes.

18 Q. And all of the dollars were to go directly to  
19 Tecumseh; is that correct?

20 A. Yes.

21 Q. And that's because it was Tecumseh's money,  
22 not Infinity's money?

23 A. Yes.

24 Q. All right. On the first day of your  
25 deposition, do you recall discussing a purchase of